ssm

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3203 OF 2007

Chandrashekhar Arjun Pillai & Anr. ...Petitioners

Vs.

Ramkhilawan Panchu Maurya ...Respondent.

Mr.R.S.Datar for the petitioners.

CORAM : ANOOP V. MOHTA,J.

DATED : 25th July, 2007

P.C.

1. The petitioner has challenged the order dated 14th March, 2007 passed in Regular Darkhast No. 59 of 2002, by Joint Civil Judge, Senior Division, Thane thereby wrongly put burden on the decree holder to prove that the decree which has been put for execution is valid and binding, though the same has been confirmed by the High Court.

2. After considering the rival contentions, this Court has already quashed and set aside the impugned order dated 14/03/2007 in WP No. 3204/07, W.P. No.3212/07 and WP No. 3219/07.

3. In this matter also, therefore, though respondents are not served, at this stage there is no point in

keeping this matter and to avoid more complications

4. In view of this, the issue is recasted as under:-

. "Does the opponent prove that he has got independent right,title and interest in the flat in possession."

5. Resultantly, the impugned order dated 14th March, 2007, is quashed and set aside. The Court to proceed on the basis of above re-casted issue No.1 alongwith the other issues. The parties be heard. The petition is, therefore, allowed and is disposed off accordingly.

6. No costs.

(ANOOP V. MOHTA, J.)